

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Dated: January 8, 2007

Signature: 

Nabeela R. McMillian

Docket No.: 30986/41550
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Preben Lexow et al.

Application No.: 10/553,505

Filed: October 14, 2005 (herewith)

Art Unit: Not Yet Assigned

For: Method for Identifying Characteristics of
Molecules

Examiner: Not Yet Assigned

PETITION UNDER 37 C.F.R. §1.47(a) and 35 U.S.C. §116

MS Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The applicant Preben Lexow petitions, pursuant to 37 CFR §1.47(a) and 35 U.S.C. §116, second paragraph, to have the above-referenced application executed on his behalf and on behalf of Erlend Ragnhildtsveit who refuses to sign the oath/declaration in the above-referenced application.

Accompanying this petition as Exhibit A is a statement of facts by Preben Lexow to whom the refusal to execute the oath/declaration was made by Erlend Ragnhildtsveit. Two copies of the statement of fact are provided, the first copy is an executed copy that is a facsimile copy containing Preben Lexow's signature, the second copy is the same document but is unexecuted. The second copy is submitted because some of the text in the facsimile copy may not be clear.

Documentary evidence of inventor Erlend Ragnhildtsveit's refusal to have any further dealings with the company or the application and evidence that the application papers were presented to Erlend Ragnhildtsveit is attached to the statement of facts as Exhibits B, C, and D.

The last known address of inventor Erlend Ragnhildtsveit is:


Jonsokveien 5
1182 Oslo
Norway

Accompanying this petition is a fee pursuant to 37 C.F.R. §1.17(g).

In view of the fact that Erlend Ragnhildtsveit refuses to sign the declaration for the above-referenced application, the joint inventor Preben Lexow petitions to be allowed to make this application on behalf of himself and the non-signing inventor. Attached to Preben Lexow's statement of facts as Exhibit E is a copy of the declaration and power of attorney document that has been executed by Preben Lexow on October 10, 2005 but that has been awaiting execution by Erlend Ragnhildtsveit.

Dated: January 8, 2007

Respectfully submitted,

By 

Nabeela R. McMillian
Registration No.: 43,363
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant

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MS Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Preben Lexow, provide the following statement of facts in support of concurrently filed petition pursuant to 37 CFR §1.47(a) and 35 U.S.C. §116, second paragraph in order to have the attached executed oath/declaration accepted without the signature of joint inventor Erlend Ragnhildstveit, who refuses to sign the oath/declaration.

1. I am the CEO of LingVitae AS and the first-named inventor of the above-referenced application.
2. I have on numerous occasions contacted Erlend Ragnhildstveit, who is named as a joint inventor with me on the above-referenced application, to request that he cooperate with the company in filing and prosecuting the above-referenced application.
3. In response to my requests Erlend Ragnhildstveit has indicated that he will no longer maintain contact with the company and he has refused to execute any oath or declaration. Attached as Exhibit B is a certified translation of a letter sent by Erlend Ragnhildstveit to LingVitae AS on January 6, 2006 informing the company that he "cannot

maintain contact with the company until it choose to behave in a professional manner by fulfilling its obligations towards me.” The letter has been redacted to remove facts that are not relevant to the refusal to sign the application. However, an unredacted copy is available should it be needed.

4. I have written to Erlend Ragnhildstveit to request that he sign the declaration and I have provided to him a copy of the application, assignment and declaration and power of attorney documents. A copy of the letter that I sent to him is attached as Exhibit C.

5. The materials referenced in paragraph 4 above were sent to Erlend Ragnhildstveit via certified delivery to his last known address, which is Jonsokveien 5, 1182 Oslo, Sweden as evidenced by the postal receipt attached as Exhibit D.

6. I have not received a response from Erlend Ragnhildstveit to my repeated request.

7. I have executed a joint declaration and power of attorney for the above referenced case on October 5, 2005 (attached as Exhibit E). The same document, which provides a place for Erlend Ragnhildstveit’s signature has been presented to Erlend Ragnhildstveit but we have not received a signed copy of this or any other declaration.

8. Despite repeated and diligent efforts on my part, I have not been able to convince Erlend Ragnhildstveit to sign the declaration for the above-referenced case.

9. In view of the above facts, it is my belief that Erlend Ragnhildstveit will continue to refuse to sign the application and as such I am providing this statement of facts and petition to execute the application on my behalf and on behalf of the non-signing inventor.

Preben Lexow

Date

Erlend Ragnhildstveit
Jonsokveien 5
1182 OSLO

3 January 2006

LingVitae AS
PO Box 335
0213 Skøyen, OSLO

Dear Sirs

Non-payment of final settlement

I would like to draw the company's attention to the fact that in spite of my claim and my letter demanding payment I have not yet received my lawful final settlement of NOK 52,189 (my claim amounting to NOK 59,946 minus the amount of NOK 7,757 paid on 6 October 2005).

The final settlement was not given to me until 6 October 2005 in spite of the fact that my last working day was 30 August of the same year. In the letter of the same date (6 October) I was for the first time made aware that the company is of the opinion that I have taken 31 unauthorised days off (i.e. 38 days minus the seven days I reported as days off) during the period May to August 2005.

I find it extremely inappropriate that the company's view is that I have taken these "unauthorised" days off. It is a contradiction in terms that I could have taken all these unauthorised days off without the CEO sending me a letter, texting me on my mobile phone or contacting me in some other way. The times I was away from work were due to illness (reported), one period when the computer was taken away from me in the middle of May (with approval from the CEO to work at home), and a period at the end of June when the CEO texted me on my mobile phone to ask me to stay away from work until he contacted me again. I have given an explanation of all these points before.

In spite of the fact that I have asked the company (in my letter of 10 October 2005) for a written validation, i.e. documentation of these "unauthorised days off", I have not yet received this. I assume that the company understands that validation is to be regarded as e-mail and letter or other tangible evidence to show that I was asked to come back to work (which would have been natural if I had taken unauthorised days off) rather than a long list of dates.

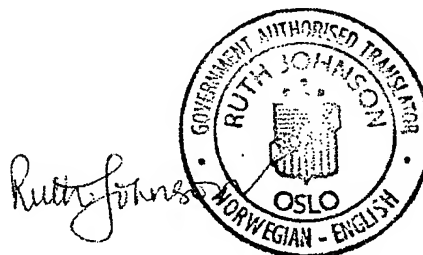
I cannot maintain contact with the company until it chooses to behave in a professional manner by fulfilling its obligations towards me. I hope this can happen in the very near future.

Yours faithfully

Erlend Ragnhildstveit (sign.)
Erlend Ragnhildstveit

P.S. I will be out travelling for two weeks from next week.

True translation from Norwegian is certified
Government Authorised Translator
19 January 2006





This mail is intended only for the addressee. As this mail may contain confidential or privileged information, if you are not the named addressee, please telephone us immediately. The contents should not be disclosed to any other person or copies taken.

December 13, 2006

Erlend Ragnhildtsveit
Jonsokveien 5
1182 Oslo

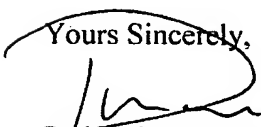
Dear Erlend

From our earlier correspondence, I understand that you are still unwilling to sign the various Powers of Attorney and Assignment forms for the US and Canadian patent applications relating to PCT/GB04/01673 and PCT/GB04/01665. I therefore inform you that we intend to proceed with these applications in the absence of your cooperation.

As you are no doubt aware, the rights to these applications are held by the company by virtue of your contract of employment.

A copy of the Specification, Assignment and Declaration & Power of Attorney for the US Patent Applications that relate to PCT/GB04/001673 and PCT/GB04/001665 is enclosed. A copy of the Specification and Assignment for the Canadian Patent Application which relates to PCT/GB04/001673 is also enclosed. I invite you once more to sign each of the enclosed forms and return the signed copies to me.

Yours Sincerely,



Preben Lexow, M.D.
Chief Executive Officer
LingVitae AS



posten

Posten Norge AS

Skøyen Bedriftssenter
POSTBOKS 39 SKØYEN

Org.nr 984 661185 MVA

Ant.	Varetekst.	Beløp MVA
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1	A-Prioritert	kr 55,00 25%
	(Vekt Manuell:0,561 kg)	
	(Destinasjon:Norge)	
	(Frensendingstid:2-3 dager)	
	(Nr.:RR003186499NO)	

1	Rekommendert	kr 49,00 25%
	(ERLEND RAGNHILDSTVEIT:)	
	(JONSØKV.5:)	
	(1182:)	
	(OSLO:)	

Total	kr 104,00
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Kontantbetaling	kr 104,00
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Hva sat	Grunnlag	Hva sun
0%		
8%		
13%		
25%	kr 83,20	kr 20,80

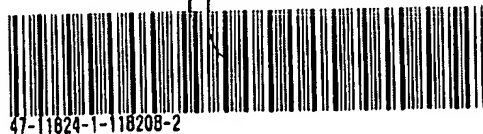
Bongnr. 47-11824-1-118208-

Dato	Tid	Kasse	Kasserer
13.12.2006	13:53:33	KASSE1	JOAR

Kundenavn :
Kundenummer :
Kunde gateadresse 1 :
Kunde gateadresse 2 :
Postnummer :
Poststed :

Denne delkassen påkittering
RR 0031 8649 9 NO

Signatur



DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of subject matter which is claimed and for which a patent is sought on an invention entitled
METHOD FOR IDENTIFYING CHARACTERISTICS OF MOLECULES

the specification of which ☐ is attached hereto or

☐ was filed on **16 APR 2004** as United States Application Number or PCT International Application Number **PCT/GB04/001665** and was amended on (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for a patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application Number(s)	Country	Foreign Filing Date	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
0308852.3	GB	16 APR 2003	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Direct all correspondence to:
Marshall, Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago
Illinois 60606-6357

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C 1001 and that such willful false statements may jeopardise the validity of the application or any patent issued thereon.

Full name of sole or First Inventor Preben LEXOW

Inventor's signature



Residence address Oslo, Norway

Post Office address

c/o LINGVITAE AS, Trimveien 6, A562, 0372 Oslo, Norway

Country of Citizenship Norway

Date of signature OCT. 10, 2005

Full name of Second Inventor Erland RAGNHILDSTVEIT

Inventor's signature

Residence address Oslo, Norway

Post Office address

c/o LINGVITAE AS, Trimveien 6, A562, 0372 Oslo, Norway

Country of Citizenship Norway

Date of signature _____